

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION**

Freedom From Religion Foundation, Inc.,)	
a Wisconsin non-profit corporation,)	
)	
Robert Moss and Melissa Moss; and)	
)	
Ellen Tillett, individually and as general guardian)	
of her minor child;)	
)	
Plaintiffs,)	
)	
v.)	Case No. 7:09-cv-1586-HMH
)	
Spartanburg County School District No. 7,)	
)	
Defendant.)	
)	

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Defendant Spartanburg County School District No. 7 hereby moves the Court for summary judgment pursuant to FED. R. CIV. P. 56. Defendant will show, based on the facts set forth in the accompanying exhibits, and for the reasons stated in the accompanying memorandum of law, that there is no genuine issue of material fact and the Defendant is entitled to judgment as a matter of law.

With respect to standing, Defendant will show that discovery and Plaintiffs' concessions after the Court ruled on the motion to dismiss have made clear that Plaintiffs have suffered no injury and therefore lack standing. On the merits, Defendant will show that the District's released time policy easily passes muster under controlling precedent concerning released time accommodations, including the Fourth Circuit's decision in *Smith*.

Respectfully submitted,

/s/Kenneth E. Darr, Jr.
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November 19, 2010
Spartanburg, South Carolina